

Amendments to House Bill No. 304
1st Reading Copy

Requested by Representative Walter McNutt

For the House Natural Resources Committee

Prepared by Krista Lee Evans
February 16, 2007 (12:46pm)

1. Title, line 5.

Strike: "AGENCY OVERSIGHT"

Insert: "RESEARCH AND STUDY"

Following: "ISSUES"

Strike: "FOR CERTAIN AGENCIES"

2. Title, line 7.

Following: "COMMITTEE;"

Insert: " PROVIDING AN APPROPRIATION;"

Strike: "SECTIONS"

Insert: "SECTION"

3. Title, line 7 through line 8.

Strike: "75-1-324" on line 7 through "85-2-436," on line 8

4. Page 2, line 7 through line 10.

Strike: "has administrative" on line 7 through "85-2-105." on line 11

Insert: "is subject to the provisions of 5-5-211 and the committee members appointed must be selected from the following standing committees:

- (a) senate natural resources and energy;
- (b) house natural resources;
- (c) senate local government; and
- (d) house local government.

(2) The water policy interim committee shall conduct a detailed analysis and study of issues related to water quantity, water quality, and water use in Montana. The study must include the following issues at a minimum:

(a) surface water and ground water in closed basins and mitigation, augmentation, or aquifer recharge, including:

(i) review and summary of current Montana law related to mitigation, augmentation, or aquifer recharge;

(ii) analysis of other states' laws and rules related to mitigation, augmentation, or aquifer recharge and the other states' experiences with applying and using mitigation, augmentation, and aquifer recharge;

(iii) comparison of mitigation, augmentation, and aquifer recharge options and alternatives for applying the concepts in

✓ 2/16/07

Montana water law;

(iv) analysis and determination of water quality testing requirements to ensure that the use of mitigation, augmentation, or aquifer recharge does not adversely affect ground water quality;

(v) analysis of data developed to determine the type and amount of research, data, and analysis necessary to develop a scientifically defensible hydrogeologic assessment to be used in making informed decisions with regard to mitigation, augmentation, or aquifer recharge activity in Montana;

(vi) appropriate monitoring requirements to determine the effectiveness of mitigation, augmentation, or aquifer recharge plans; and

(vii) other issues related to mitigation, augmentation, or aquifer recharge in Montana to facilitate continued economic development and growth while providing reasonable protections to senior appropriators and water quality of surface and ground water resources;

(b) methods for the management of water, particularly in closed basins, to ensure compliance with closed basin law, including:

(i) artificial recharge of ground water, including but not limited to alternatives such as aquifer storage and recovery;

(ii) identifying research necessary, if any, to determine alternatives and options for conducting water management through artificial recharge of ground water; and

(iii) conducting a water quality analysis associated with storage or introduction of surface water to ground water resources;

(c) determining an appropriate, accurate, and time-efficient process for coordinating water quality requirements with the water appropriations process by:

(i) determining how the department of environmental quality and the department of natural resources and conservation are issuing permits that affect ground water or surface water quality and whether or not the water appropriation process and the water quality process are coordinated;

(ii) ensuring that a detailed process is outlined that provides potential applicants with a clear process that must be followed to ensure that prior appropriators and water quality in both surface water and ground water are protected while allowing development in Montana; and

(iii) identifying the extent to which cumulative impacts are analyzed from a water quantity and a water quality perspective and whether or not the two findings are assessed jointly and determining the appropriate level of coordination;

(d) wells that are exempt from the permitting process pursuant to 85-2-306, including:

(i) a detailed reporting of the number of exempt wells currently in Montana and an estimate of the number of exempt

wells expected to be developed by 2020;

(ii) a determination and summary of the types of beneficial uses to which water from exempt wells is applied;

(iii) a determination of the hydrogeologic analysis necessary to determine consumptive use on a per-acre or fraction of an acre basis and on a per-use basis;

(iv) an analysis of the amount of water reasonably necessary for the various beneficial uses and a comparison of this reasonable use standard with current statutory limits, including volume, flow rate, and other criteria that the committee determines is necessary to provide for accurate and adequate measurement of water use through exempt wells;

(v) options and alternatives for enforcing statutory limitations regarding exempt well usage; and

(vi) a determination of the necessity and reasons for providing a process that is exempt from the permitting process;

(e) an analysis of water marketing and water reallocation options available in Montana, including:

(i) leasing water rights, water banking, water trading, and water sales;

(ii) the lease-to-sale ratio of water rights in Montana;

(iii) the number of market purchases that have been completed in Montana;

(iv) the purposes for which water trades or sales have taken place;

(v) the feasibility of creating and operating a water bank in Montana; and

(vi) the administrative procedures and costs that would be necessary to establish and operate a water bank in Montana.

(3) The committee shall gather appropriate information that the committee determines is necessary to make sound and well-reasoned policy decisions to guide the management and use of Montana's ground water resource into the future, including but not limited to:

(a) identifying gaps in data necessary to determine appropriate locations to conduct artificial recharge of ground water; and

(b) presenting long-term goals and policy proposals for water management related to ground water resources.

(4) The committee shall prepare a report to submit to the 61st legislature that provides clear policy direction and necessary legislation to guide Montana's water policy and that ensures fair and reasonable use of Montana's water resource as demands on water increase while supplies remain the same or decrease."

5. Page 2, line 13 through page 9, line 25.

Strike: section 3 through section 9 in their entirety

Renumber: subsequent sections

6. Page 9.

Following: line 25

Insert: "NEW SECTION. Section 3. Appropriation. (1) There is appropriated \$50,000 from the general fund for the biennium beginning July 1, 2007, to the water policy interim committee for the purpose of completing a water quantity and water quality policy analysis.

(2) There is appropriated \$50,000 from the general fund for the biennium beginning July 1, 2007, to the Montana bureau of mines and geology for the purpose of collected and compiling existing ground water and aquifer testing data."

Renumber: subsequent sections

7. Page 9, line 30.

Strike: "on passage and approval"

Insert: "July 1, 2007"

8. Page 10, line 2.

Strike: "[Section 7]"

Insert: "[This act]"

Strike: "2020"

Insert: "2009"

- END -